IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

WESTFIELD INSURANCE COMPANY *Plaintiff,* v. MAXIM CONSTRUCTION CORPORATION, INC. the CITY OF CRYSTAL LAKE, ILLINOIS, ENVIROGEN TECHNOLOGIES, INC., and the LAKE COUNTY PUBLIC WATER DISTRICT, *Defendants.*	)	No.: 15-cv-09358
MAXIM CONSTRUCITON CORPORATION, INC. *Defendant/Counter-Plaintiff* v. WESTFIELD INSURANCE COMPANY *Plaintiff/Counter-Defendant*	)	

CARLSON LAW OFFICES' MOTION TO WITHDRAW AS COUNSEL FOR DEFENDANT/COUNTER-PLAINTIFF MAXIM CONSTRUCTION CORPORATION

Pursuant to Local Rules 83.17 and 83.50, Keith G. Carlson and Jeffery A. Bier, both attorneys associated with the law firm of Carlson Law Offices ("CARLSON") and hereafter collectively referred to as the "Carlson Attorneys," seek leave to withdraw from the above-captioned litigation as counsel for Defendant Maxim Construction Corporation, Inc. ("MAXIM"). In support of the Motion, CARLSON states as follows:

1. Local Rule 83.17 provides that an attorney must obtain leave of court to withdraw from a case. The American Bar Association's Model Rules of Professional Conduct and the

Illinois Rules of Profession Conduct have specified circumstances permitting an attorney to withdraw. The Northern District of Illinois has adopted and applied both rules. Local Rule 83.50, *see City of Joliet v. Mid-City Nat. Bank of Chicago*, 998 F. Supp. 2d 689, 692 (N.D. Ill. 2014). Pursuant to Model Rule and Illinois Supreme Court Rule 1.16 ("Rule 1.16"), and attorney may withdraw from representing a client if:

a. (b)(5) the client fails substantially to fulfill an obligation to the lawyer regarding the lawyer's services and has been given reasonable warning that the lawyer with withdraw unless the obligation is fulfilled; or

b. (b)(6) the representation will result in an unreasonable financial burden on the lawyer or has been rendered unreasonably difficult by the client.

(Rule 1.16 Declining or Terminating Representation, Ann. Mod. Rules Prof. Cond., Rule 1.16(b)(1), (5), (6); IL R S CT RPC Rule 1.16(b)(1), (5), (6); Local Rule 83.50).

2. CARLSON should be permitted to withdraw under Rule 1.16(b)(5) because MAXIM has failed to pay CARLSON and CARLSON has given reasonable warning that it would withdraw unless payment was received.

3. CARLSON has advised MAXIM on numerous occasions that if MAXIM is unable to pay its attorneys' fees, CARLSON and the CARLSON Attorneys would need to withdraw its representation. MAXIM has been advised of the possibility for withdraw by the CARLSON attorneys for months and has no objection.

4. MAXIM has informed CARLSON that it does not possess the resources nor has the prospect for obtaining the resources to pay CARLSON and has no objection to this withdrawl.

5. The Seventh Circuit has recognized that "litigants have no right to free legal aid in civil suits." *Fidelity Nat'l Title Ins. of New York v. Intercounty Nat'l Title Ins. Co.*, 310 F.3d 537,

540 (7th Cir. 2002). (finding "[m]ore than $470,000 in unpaid bills, with the meter still running and poor prospects of future payment, is [a] substantial [failure] by any reckoning").

6. CARLSON has spent considerable resources in preparing and defending MAXIM's Motion for Summary Judgment and Counter-Claim for Breach of Contract without payment by MAXIM. CALRSON also has spent considerable resources negotiating with counsel for Plaintiff as well as counsel for the City of Crystal Lake and Envirogen in the underlying case as a result of the default judgments entered against MAXIM.

7. CARLSON also provided notice of its intent or need to withdraw on April 26, 2017, and other occasions. MAXIM's principal, Dan Sjong, acknowledged CARLSON's potential need to withdraw during a May 9, 2017 conversation.

8. Accordingly, CARLSON should be permitted to withdraw under Rule 1.16(b)(5) because MAXIM has failed to substantially fulfill its obligation to CARLSON and has reasonable warnings that CARLSON must withdraw unless MAXIM fulfilled its obligation.

9. CARLSON should also be permitted to withdraw under Rule 1.16(b)(6) because it has and will continue to incur a significant financial burden. As discussed above, CARLSON has spent considerable time and resources representing MAXIM without payment. The prospect of accumulating additional uncompensated expenditures mirrors the uncompensated outlay the Seventh Circuit in *Fidelity* found to satisfy Rule 1.16(b)(6). *Fid. Nat. Title*, 310 F.3d at 541 (allowing withdrawal of counsel under Rule 1.16(b)(6) where there was poor prospect of future payment for trial, let alone past unpaid bills due). Therefore, this Court should also find that further representation will result in an unreasonable financial burden to CARLSON and grant the motion to withdraw.

WHEREFORE, CARLSON LAW OFFICES, respectfully request this court grant it leave to withdraw as counsel for MAXIM CONSTRUCTION.

Respectfully submitted,

CARLSON LAW OFFICE

/s/ Keith G. Carlson
Keith G. Carlson, One of the Attorneys for
Defendant, Maxim Construction Company

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Certificate of Service

I hereby certify that on May 11, 2017, I electronically filed the MOTION TO WITHDRAW with the Clerk of Court using the ECF system which sent notification of such filing to Filing Users in this matter.

By: /s/ Keith G. Carlson

The undersigned hereby certifies that that the attached **MOTION TO WITHDRAW** was served upon Defendant, Maxim Construction Corporation, Inc. via first class US Mail and certified US Mail sent to the following address via from Two N. LaSalle Street, Suite 1800, Chicago, IL 60602 before the hour of 5:00 p.m., with proper postage prepaid on this 11th day of May, 2017.

Maxim Construction Corporation, Inc.
Attn: Dan Sjong
31632 N. Ellis Dr., Unit 111
Volo, IL 60073

/s/ Keith G. Carlson
Keith G. Carlson